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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,596	03/18/2004	Robert Thomas Kepka	UP13	7341

34356 7590 10/13/2005

ASHKAN NAJAFI, P.A.  
6817 SOUTHPOINT PARKWAY  
SUITE 2301  
JACKSONVILLE, FL 32216

EXAMINER

WRIGHT, ANDREW D

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 10/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/803,596

Applicant(s)

KEPKA, ROBERT THOMAS

Examiner

Andrew Wright

Art Unit

3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-13 and 19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19 is/are allowed.
- 6) ☒ Claim(s) 1-3, 8-11 and 13 is/are rejected.
- 7) ☒ Claim(s) 4, 6, 7 and 12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

*Ch*

## **DETAILED ACTION**

### ***Drawings***

1. The drawings were received on 9/28/05. These drawings are acceptable for examination.

### ***Claim Objections***

2. Claim 1 is objected to. Claim 1 recites "the boat transom". This recitation lacks antecedent basis in the claims. The phrase "boat transom" should be changed to "water vehicle transom" be consistent with the claim language. Claim 12 has a similar problem. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by McCormick (US 4,790,782). Regarding claim 1, McCormick shows an outdrive system (1). The system comprises trim system (41, 45). The trim system constitutes a control means for generating a user input and directing the outdrive. It can direct the outdrive along radial lines that extend in a vertical plane that bisects the length of the hull. The water vehicle will be propelled in a corresponding direction. Casing (9) is a gimbal section. Casing (9) is operatively connected to the control means for positioning the outdrive system. Steering cylinders (39, 40) constitute the support means. Steering

Art Unit: 3617

cylinders are secured to the transom and at least indirectly to the gimbal section. The steering cylinders are selectively operable independent of the tilt cylinder (41). The steering cylinders constitute a bracket, each cylinder being an elongated member secured and spaced along the transom and converging rearwardly toward the outdrive system.

5. Claim 2, the gimbal section includes an upper housing (9). The housing further comprises shafts (12, 28) and bevel gear (24, 27). The rotational motion of the shafts is orthogonal.

6. Claim 3, universal joint (11) is connected to another shaft (6).

7. Claim 8-10, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Hosoi (US 5,647,780). Regarding claim 8, Hosoi shows a gimbal assembly for an outdrive. Hosoi discloses a steering cylinder and circuit (column 3, lines 36-41). The steering system and circuit constitute a control means for generating a user input and directing the outdrive system to rotate freely in a selected radial path. Hosoi shows gimbal housing (32) and gimbal ring (34) that constitute the gimbal section. Hosoi discloses that the steering cylinder is connected to the gimbal housing. Hosoi shows cylinders (84, 114) that constitute a support means for assisting to maintain the gimbal section at a stable position during operation. The cylinders are connected at least indirectly to the transom.

8. Claim 9, Hosoi shows an upper housing (22) extending from the transom comprising first shaft (54) and second shaft (58) and bevel gear (56). The shafts are substantially orthogonal to each other (fig 4).

9. Claim 10, Hosoi shows universal gear (60) connected to the shaft (58) such that the outdrive can be rotated clockwise and counterclockwise.

10. Claim 13, the support means comprises cylinders (84, 114) and pumps (100, 120).

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 8 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blanchard (US 4,371,348). Regarding claim 8, Blanchard shows a control means (105). The support means comprises the upper housing (41) and the hydraulic mechanism for tilting the lower housing (43) (not shown, see lines 47-50 of column 3). The upper unit (41) portion of the support means is connected to the transom and lower unit (43) respectively. The tilt function is independent of the steering function. Inspection of the steering mechanism reveals that it can swing the lower housing through at least a 90° arc. Blanchard shows a connection between the upper housing (41) and lower housing (43). Blanchard teaches that the connection can be any suitable means that provides pivotal movement of the lower housing about the tilt axis. The connection must also allow for steering. Blanchard shows a circular connection that resembles a gimbal. Based upon Blanchard's suggestion that any suitable connection could be used, it would have been obvious to one having ordinary skill in the art at the time the invention

Art Unit: 3617

was made to modify Blanchard by using a gimbal connection between the upper housing and lower housing. The motivation would be to use a known connection in the art that provides the required pivotal movement.

13. Regarding claim 11, Blanchard shows a steering gear (97) that includes a shaft (95). The shaft, which is part of the gear, extends into the gimbal section. The steering gear is operatively connected to the control means to direct the outdrive between selected positions.

#### ***Allowable Subject Matter***

14. Claim 19 is allowed.

15. Claims 4, 6, 7, and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

16. The previously indicated allowability of claim 5 is withdrawn in view of the newly discovered reference to McCormick (US 4,790,782). Rejections based on the newly cited reference are described above.

#### ***Response to Arguments***

17. Applicant's arguments with respect to claims 1-7 have been considered but are moot in view of the new ground(s) of rejection. The new ground of rejection was not necessitated by applicant's amendment so this action is non-final.

18. Applicant made no arguments regarding or amendments to previously rejected claims 8-11 and 13. The previous rejection has been maintained.

***Conclusion***

19. Any inquiry concerning this communication should be directed to examiner Andrew D. Wright at telephone number 571-272-6690. The examiner can normally be reached Monday-Friday from 9:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joe Morano, can be reached at 571-272-6684. **The Central FAX Number for official communications is 571-273-8300.** The fax number directly to the examiner for unofficial communications is 571-273-6690.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Andrew D. Wright  
Patent Examiner  
Art Unit 3617

**ANDREW D. WRIGHT**  
**PRIMARY EXAMINER**

*AW* 10/11/05